

REPLY TO OFFICE ACTION OF 07/09/2004

SERIAL NO: 09/336,424
DOCKET NO: 149-0112US**REMARKS****Claims**

Claims 1-52 are pending. Claims 1-52 stand rejected. No claim is amended, cancelled or added in this paper.

Section 102 Rejections

Pending claims 1-52 (in their current form) were initially rejected in a third Office Action dated 5/6/2003 in view of Agranat (USP 5,973,696), Blinn (USP 5,897,622), Levine (USP 5,745,681) and Saliba (USP 6,052,710) *individually*. The claims were rejected again in a final (fourth) Office Action dated 10/14/2004 and in an advisory (fifth) Office Action dated 12/15/2003 in view of Agranat *alone* for the same reasons. An Appeal Brief was filed on 1/28/2004. In light of Applicant's Appeal Brief, the Examiner withdrew his final rejections. Following withdrawal of finality, a sixth Office Action dated 4/5/2004, rejected the pending claims in view of a *new* reference, Yoshikawa (USP 6,061,516). In the current (seventh) Office Action dated 7/9/2004, the pending claims are rejected in view of, again a *new* reference, Chen (USP 5,506,955).

With respect to the first clause of claim 1, the Examiner cites: "Chen, col. 3, line 46 - col. 5, line 3; col. 38, line 22 - col. 39, line 67; col. 40, line 14 - col. 41, line 64; col. 93, line 21 - col. 94, line 51; col. 98, line 55 - col. 100, line 25." The cited text comprises nearly seven (7) columns. After reading these seven (7) columns of text, Applicants are not able to identify their relevancy to the claimed elements in the first clause of claim 1. Specifically, Chen does not teach, describe or even suggest at least the following elements recited in clause one of claim 1: [1] receiving a message that was sent [2] from a remote device, said message comprising a [3] definition, a [4] state change, and a [5] command, said definition defining a [3A] fixed aspect of a user environment, said state change describing a [4A] change in a non-fixed aspect of said user environment, said command being a [5A] directive that causes a function to be performed.

The Examiner is reminded that "[f]or a prior art reference to anticipate in terms of 35 U.S.C. 102, *every* element of the claimed invention must be identically shown in a single reference." *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677 (Fed. Cir. 1988), quoted in *In re Bond*, 910 F.2d 831, 832 (Fed. Cir.), *reh'g denied*, 1990 U.S. App. LEXIS 19971 (1990)

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(vacating and remanding Board holding of anticipation); see M.P.E.P. 2131. Further, the “identical invention must be shown in *as complete detail as is contained in the patent claim.*” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir.), *cert. denied*, 493 U.S. 853 (1989); *see also* M.P.E.P. 2131. Further, the “*elements must be arranged as in the claim under review.*” *In re Bond*, 910 F.2d 831, 832 (Fed. Cir.), *reh'g denied*, 1990 U.S. App. LEXIS 19971 (1990); *see also* M.P.E.P. 2131. (All emphasis added.)

For at least these reasons alone, Applicants submit that the rejection of independent claim 1 is improper. Applicants respectfully request the allowance of claim 1 and all claims depending therefrom (2-11).

With respect to independent claim 12, the second clause of claim 12 is similar to the first clause of claim 1 except that the message does not have to include all three components, the “*definition*”, the “*state change*” and the “*command*. As discussed above nothing in Chen teaches, describes or even suggests a “*messages* recited. Therefore, Chen does not anticipate or make obvious claim 12. For at least these reasons, Applicants submit that the rejection of independent claim 12 is improper. Applicants respectfully request the allowance of claim 12 and all claims depending therefrom (13-25).

Independent claims 26 and 51 have at least the same limitations as recited in independent claim 1. Since claim 1 is allowable, claims 26, 51 and the claims that depend therefrom (27-36) are allowable. Similarly, independent claims 37 and 52 have at least the same limitations as recited in independent claim 12. Since claim 12 is allowable, claims 37, 52 and the claims that depend therefrom (38-50) are allowable. In summary, all pending claims 1-52 are allowable. Their allowance is respectfully requested.

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Reconsideration and allowance of pending claims 1-52 in light of the above remarks is respectfully requested.

INTERVIEW REQUEST

Applicants note this is the seventh office action received during prosecution of the current application. There have been five (5) Office Actions since the claims were last amended. To expedite examination, Applicants respectfully request an interview with Examiner Hai V. Nguyen and his supervising Examiner Jack Harvey to discuss the prosecution of the current application. Applicants request the Examiner call the Applicants' attorney at the phone number listed below for a telephone interview.

Respectfully submitted,

10/6/2004
Date

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